

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANNETTE BAKAY and RICHARD
BAKAY, wife and husband,

Plaintiffs,

v.

LAURIE A. YARNES, in her individual and
official capacity as CLALLAM COUNTY
ANIMAL CONTROL OFFICER; LAURIE
A. YARNES and TODD A. YARNES, a
marital community; TRACEY KELLAS, in
her individual and official capacity as
CLALLAM COUNTY ANIMAL
CONTROL OFFICER, and RANDOLPH J.
KELLAS, husband and wife, a marital
community; CLALLAM COUNTY ex rel.
CLALLAM COUNTY SHERIFF'S OFFICE
and CLALLAM COUNTY ANIMAL
CONTROL, a Washington municipal
corporation; CHARLES B. SCHRAMM, in
his individual and official capacity as
PRESIDENT OF HUMANE SOCIETY OF
CLALLAM COUNTY (UBI 601-141-356),
a Washington nonprofit corporation;
CHARLES B. SCHRAMM and JANE DOE
SCHRAMM, a marital community;
HUMANE SOCIETY OF CLALLAM
COUNTY (UBI 601-141-356), a
Washington nonprofit corporation; and
DOES 1-10,

Defendants.

Case No. C04-5803RJB

ORDER AUTHORIZING
RESPONSE TO DEFENDANTS
YARNES, KELLAS, AND
CLALLAM COUNTY'S MOTION
FOR RECONSIDERATION

1 This matter comes before the Court on Defendants Yarnes, Kellas, and Clallam County's
2 Motion for Reconsideration (Dkt. 210) regarding the Court's recent Order on Defendants'
3 Motion for Summary Judgment for Dismissal of State Law Claims (Dkt. 209). Pursuant to
4 Local Rule 7(d), motions for reconsideration are noted for the day they were filed. The Court
5 has considered the pleadings filed in this matter and the file herein.

6 MOTION FOR RECONSIDERATION

7 To date, all claims against Defendants Yarnes, Kellas, Clallam County Sheriff's
8 Department, and Clallam County Animal Control have been dismissed, except for possible
9 claims under the Washington Constitution, which is the subject of this Motion for
10 Reconsideration.

11 In their Amended Complaint, Plaintiffs allege the following in their sixth and seventh
12 claims for relief:

13 By this conduct, individual defendants have violated Plaintiffs' federal
14 constitutional and statutory rights under 42 U.S.C. § 1983, **as well as corollary**
15 **Washington State constitutional rights against unreasonable searches and**
seizures (Art. 1, Wash. Const. §§ 3 and 7), deprivations of liberty and
property without due process (substantive and procedural), and taking
property for a public purpose without just compensation.

16 Dkt. 46, at 12-13 (emphasis added). The Court construed Plaintiffs' complaint to allege
17 violations of their civil rights under both the federal and state constitutions.

18 On December 30, 2005, Defendants Yarnes, Kellas, and Clallam County filed this
19 motion, requesting that the Court reconsider its recent Order that dismissed all state tort and
20 contract claims against Defendants Yarnes, Kellas, Clallam County Sheriff's Department, and
21 Clallam County Animal Control. In the Order, the Court stated "[t]he Court has not dismissed
22 any claims alleging violations of Plaintiffs' rights under the Washington Constitution, which to
23 date have not been addressed by motion." Dkt. 209, at 12.

24 Defendants contend that Plaintiffs did not reference the Washington Constitution as a
25 separate basis for liability, and that Defendants Motions for Summary Judgment adequately
26 addressed all potential claims under both the federal and state constitutions. Defendants request

1 that the Court amend its Order to dismiss all claims against Defendants Yarnes, Kellas, Clallam
2 County Sheriff's Department, and Clallam County Animal Control in this matter, including any
3 potential claims brought under the Washington Constitution.

4 APPLICABLE STANDARDS

5 Local Rule 7(h)(3) states, in part:

6 **(h) Motions for Reconsideration**

7 (3) Response. No response to a motion for reconsideration shall be filed unless
8 requested by the court. No motion for reconsideration will be granted without
9 such a request. The request will set a time when the response is due, and may
limit briefing to particular issues or points raised by the motion, may authorize a
reply, and may prescribe page limits.

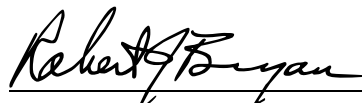
10 ORDER

11 Therefore, it is hereby

12 **ORDERED** that Plaintiffs are authorized to file a Response, not to exceed 8 pages, to
13 Defendants Yarnes, Kellas, and Clallam County's Motion for Reconsideration (Dkt. 210). In
14 view of the impending pretrial conference scheduled for January 20, 2006, Plaintiffs' Response
15 is due on January 9, 2006, and Defendants' Reply is due on January 11, 2006. This matter will
16 be considered on January 11, 2006.

17 The Clerk of the Court is instructed to send uncertified copies of this Order to all
18 counsel of record and to any party appearing *pro se* at said party's last known address.

19 DATED this 3rd day of January, 2006.

20 
21 Robert J. Bryan
22 United States District Judge
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